

**REMARKS**

**I. Summary of the Office Action and this Reply**

Claims 1-31 are pending. The Examiner has rejected claims 1-31 under 35 U.S.C. §102(e), asserting that such claims are anticipated by U.S. Patent No. 7,016,870 to Jones et al. ("Jones").

The status of the Office Action dated December 7, 2006, is unclear. Specifically, the Office Action Summary indicates that the Action is non-final, but conflicting text appears on page 4 of the Action. It is requested that the Action be considered non-final.

In this Reply, claims 1-4, 6-18, 21-24, 29 and 30 are amended.

**II. Examiner Interview**

The Examiner is thanked for the telephone interview conducted on January 23, 2007. The section 102 rejection, proposed amendments, and arguments distinguishing the Jones reference were presented. No agreement was reached; the Examiner wished to reconsider the Jones reference.

**III. Response to 102 Rejections**

A rejection under 35 U.S.C. §102 is proper only if each and every element of the claim is found in a single prior art reference. MPEP § 2131. The Examiner has rejected claims 1-31 under 35 U.S.C. §102(e), asserting that each and every element of these claims are found in Jones.

**Claims 1, 2, 4-8 and 13-15**

Independent claim 1 is directed to a computer-implemented method of rebalancing a portfolio of assets to achieve optimality. The claimed method includes "transmitting to a customer . . . and a list comprising at least one recommended rebalancing transaction, each recommended rebalancing transaction comprising asset information identifying a specific asset, quantity information identifying a specific number of units of the specific asset, and transaction information comprising one of a buy instruction and a sell instruction." Accordingly, each recommended rebalancing transaction is identified with specificity by the system - e.g., SELL, 500 shares, EXXON stock. Accordingly, necessary parameters of the required rebalancing transactions are predetermined by the system. The inclusion of the necessary parameters of the required rebalancing transactions is inherent to the identification of a recommended rebalancing transaction that can be accepted, implemented, and executed as a result of a single action response, such as a mouse click, by the user. Accordingly, no input/tinkering/calculation is needed on the part of the user/investor/portfolio owner. Instead, the user/investor/portfolio owner can simply authorize the recommended rebalancing transaction(s) in a simple, single response action, such as clicking a mouse. Claim 1 further recites "'receiving from the customer a single response to the transmitted alert message; and automatically implementing list comprising at least one recommended rebalancing transactions based on the received customer's response to cause execution of each recommended rebalancing transaction."

While Jones discloses that its system may provide alerts, and may provide an analysis resulting in a suggestion to rebalance the portfolio, increase savings, retire

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later, or adjust investment risk, etc. (Jones, col. 6, lines 38-44), Jones' system does not provide a specific "list comprising at least one recommended rebalancing transaction, each recommended rebalancing transaction comprising asset information identifying a specific asset, quantity information identifying a specific number of units of the specific asset, and transaction information comprising one of a buy instruction and a sell instruction" as required by claim 1. In accordance with the present invention, it is the specific listed rebalancing transactions provided by the system that may be automatically implemented in very simple fashion by the investor by providing a single response (e.g., a single action such as a click of a mouse) in response to the alert message. It is the provision of specific transaction parameters, e.g. asset information, quantity information and transaction information, by the system in the list of recommended rebalancing transactions that permits the user to authorize with a single response action.

In contrast to the claimed invention, Jones requires the user to perform much more complex iterative "tinkering" with portfolio parameters until the user is satisfied with a desired portfolio forecast and performance distribution, etc. as described in the quoted portion of Jones below:

An iterative process may then begin in which the user may adjust his/her investment risk, savings rate, and/or retirement age and have the financial advisory system 100 evaluate the projected performance of an optimized portfolio given the financial products available to the user based on the currently selected risk tolerance, investment horizon and savings rate decisions. This process of the financial advisory system 100 providing advice and/or feedback and the user adjusting risk, savings, and retirement age parameters may continue until the user has achieved a desired portfolio forecast and performance distribution. At this time, the user may chose to implement the optimal portfolio. The parameters and portfolio allocation may then be saved by the financial advisory system 100 for future user sessions. Col. 6, lines 44-58.

In contrast to the single response of the claimed invention, the need in Jones for the user's iterative process is repeated elsewhere in Jones:

Based upon the alerts generated by the ongoing plan monitoring, the user may again begin the iterative process of adjusting the decision variables described above (e.g., risk level, savings rate, and retirement age) until the user is satisfied with the likelihood of meeting his/her goal(s). Col 7, lines 7-12.

Various other conditions are contemplated that may cause alerts to be generated. For example, if the nature of the financial products in the currently recommended portfolio have changed such that the risk of the portfolio is outside the user's risk tolerance range, the user may receive an indication that he/she should rebalance the portfolio. . . .

The UI module 345 provides mechanisms for data input and output to provide the user with a means of interacting with and receiving feedback from the financial advisory system 100, respectively. Col. 12, lines 47-60.

According to one embodiment of the present invention, based upon the user's preference among the decision variables, the system may offer advice regarding which decision variable should be modified to bring the portfolio back on track to reach the one or more financial goals with the desired probability. In addition, the system may recommend a reallocation to improve efficiency of the portfolio. An alert may be generated to notify the user of the advice and/or need for affirmative action on his/her part. As described above, the alert may be displayed during a subsequent user session with the financial advisory system 100 and/or the alerts may be transmitted immediately to the user by telephone, fax, email, pager, fax, or similar messaging system.

Although Jones' system is an analysis tool that may offer advice regarding decision variables, or may suggest reallocation among distinctly different asset classes (e.g. from 60/40 stock/bonds to 20/80 stock/bonds), the user of Jones' system is merely notified of the need for affirmative action on the part of the user. See Background regarding distinctions between financial products and asset classes. Jones' system may provide, for example, a recommendation that for given risk level, savings rate and retirement age decision variables, or as a result of a change of specific financial products held by a mutual fund and in view of the decision variables, that the asset

allocation of the user's portfolio should be changed. However, there is no teaching or suggestion in Jones of the system's presentation of a list of specific rebalancing transactions (e.g. in order to rebalance, sell 50 shares of EXXON stock and buy \$1257 of IBM stock). Further, there is no teaching or suggestion that the user can cause automatic rebalancing of a portfolio responsive to a single response, such as the click of a mouse.

There is no disclosure in Jones that the user's implementation of the "optimal portfolio" is performed in anything other than a conventional, unsophisticated manner, e.g. by selecting a particular stock to buy or sell, determining a quantity, preparing a buy/sell order, communicating the order, etc., then turning to a next stock and repeating the process, etc. This is avoided according to the present invention, in which the system provides a list of specific rebalancing transactions that the user can accept and have automatically implemented upon a single response, such as the click of a mouse.

Claims 2, 4-8 and 13-15 depend from claim 1 and are likewise patentable.

For at least these reasons, the claimed invention is neither taught nor suggested by the cited art. Reconsideration and withdrawal of the rejection of claims 1, 2, 4-8 and 13-15 are requested respectfully.

### **Claim 3**

Claim 3 depends from claim 1 and is likewise patentable. In addition, claim 3 recites "automatically retransmitting . . . to the customer via a second customer-defined communications method if the step of transmitting via the first communications method was not successfully executed." Although Jones discloses that "alerts may be

transmitted immediately to the user by telephone, fax, email, pager, fax, or similar messaging system" (Col. 28, lines 33-37), Jones is devoid of any teaching of automatically retransmitting an alert message to via secondary method if a first method is not successfully executed.

For at least these reasons, the claimed invention is neither taught nor suggested by the cited art. Reconsideration and withdrawal of the rejection of claim 3 are requested respectfully.

### **Claims 9-12**

Claims 9-12 depend from claim 1 and are likewise patentable.

In addition, claim 9 recites "generating execution instructions based on the list . . . and transmitting the execution instructions to an electronic trading system, whereby each transaction of the list . . . is executed electronically." Jones is devoid of any disclosure teaching or suggesting anything other than a conventional trading scenario in which a user takes affirmative actions to effect transactions in a conventional manner.

Claim 10 recites that the customer's response that results in automatic implementation of the list of rebalancing transactions is "contained in a return e-mail from the customer, wherein the return e-mail includes a transaction number identifying the list of recommended rebalancing transactions." Although Jones discloses that alerts may be transmitted immediately to the user by email (Col. 28, lines 33-37) , Jones is devoid of any disclosure that an investor may respond by an email including a transaction number identifying a list of recommended rebalancing transactions and thus cause automatic implementation of the list of transactions.

Claim 11 recites that the customer's response is received on paper and includes an optical code for retrieving the list of recommended rebalancing transactions. Jones is devoid of any disclosure involving such an optical code.

Claim 12 recites that the customer's response is received as a voice sound that is recognized using a voice recognition device. Jones is devoid of any disclosure involving such voice response and voice recognition.

For at least these reasons, the claimed invention is neither taught nor suggested by the cited art. Reconsideration and withdrawal of the rejection of claims 9-12 are requested respectfully.

### **Claims 16-28**

Independent claim 16 recites a second unit for transmitting the alert message and the list of recommended rebalancing transactions to the customer, receiving a single response of the customer to the transmitted alert message, and automatically implementing the list of transactions based on the received customer's response. Thus claim 16 is patentable for reasons similar to those set forth above for claim 1.

Claim 17 depends from claim 16 and is likewise patentable.

Claim 18 is patentable for reasons similar to those set forth above for claim 3.

Claims 19, 20 and 21, 22, 23, 24 and 25 are patentable for reasons similar to those set forth above for claims 4, 5, 6, 9, 10, 11 and 12, respectively.

Claims 26, 27 and 28 are patent for reasons similar to those set forth above for claims 13, 14 and 15.

Reconsideration and withdrawal of the rejection of claims 16-28 are requested respectfully.

**Claims 29-31**

Independent claim 29 includes recitations similar to those of claim 1, particularly with respect to the single response and automatic performance of predetermined transactions in response to the single response, and is likewise patentable.

Claim 30 further includes transmitting a list of predetermined transactions to the user, and thus is patentable for reasons similar to those set forth for claim 1.

Claim 31 depends from claim 29 and is likewise patentable.

Reconsideration and withdrawal of the rejection of claims 29-31 are requested respectfully.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants believe claims 1-31 to be patentable and the application in condition for allowance, and request respectfully issuance of a Notice of Allowance. If any issues remain, the undersigned requests a telephone interview prior to the issuance of an action.

Respectfully submitted,

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